

REMARKS

After the foregoing amendment, Claims 1 and 3-45 are pending in this application. Claim 2 has been canceled and the subject matter thereof has been incorporated into independent Claims 1, 37, 38 and 39. Claims 1, 25, 31-33, 35, and 37-44 have been amended in order to more particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. New Claim 45 has been added to cover an embodiment described in paragraph 111 of the specification. The Summary section (paragraph 0006) and the Abstract of the Disclosure have been amended to conform these sections to the changes made to claim 1. The specification has been amended to properly reference appropriate trademark symbols. No new matter has been added to the application as a result of the foregoing amendment to the claims or specification.

Restriction/Election

Applicant hereby confirms the specie election made during the telephone conversation with the Examiner on December 22, 2004 with respect to the speed increaser being drawn to an arrangement of gears (Claim 6) and with respect to the energy dissipating mechanism comprising an air resistance fan (Claim 8). However, with respect to the cable force limiting mechanism, the Applicant respectfully submits that the election which was made during the telephone conversation was directed to the torque limiting mechanism as called for in Claim 21 and not the energy absorbing web in line with the cable as called for in Claim 20. Accordingly, Applicant hereby affirms the election with respect to Claims 6, 8 and 21. Dependent claims 9, 23 and 24 depend directly or indirectly from the claims of the elected species.

In the Office Action in the first full paragraph on page 3, the Examiner stated that Claims 7, 10-13 and 21-24 are withdrawn from further consideration as being drawn to a non-elected invention. On page 2 of the Office Action the Examiner stated that upon allowance of a generic claim, the Applicant would be entitled to consideration of claims to additional species which are written in dependent form. In addition, on page 2 of the Office Action, the Examiner stated that Claims 1, 5, 18 and 19 are generic. Finally, on page 5 of the Office Action, the Examiner stated that Claim 1 would be allowable if rewritten or amended to overcome the rejections under 35 U.S.C. § 112, second paragraph. It is respectfully submitted that, as

described in greater detail below, the rejection of Claim 1 has been overcome by the foregoing amendment. Accordingly, it is respectfully submitted that since Claim 1, an admitted generic claim, is in condition for allowance that the restriction requirement should be withdrawn since all claims that have been restricted depend directly or indirectly from generic Claim 1.

Formal Rejections

Claims 1-44 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. By the foregoing amendment to the claims, it is respectfully submitted that this rejection has been overcome with respect to currently pending Claims 1 and 2-44. A brief discussion with respect to each portion of the rejection is set forth below:

1. Claims 1, 37, 38 and 39 were rejected for failure to structurally relate the housing to the harness and the harness to the person. The Examiner suggested that these claims be amended to recite that the housing is directly secured/affixed within or to the harness and that the harness is securable/affixable to the person. By the foregoing amendment, Claims 1, 38 and 39 (as well as Claims 40-44) have been amended in order to specifically recite that the harness is securable to the person and the housing is affixed to the harness. Accordingly, it is respectfully submitted that this portion of the rejection to claims 1, 37, 38 and 39 has been overcome.
2. Claims 1, 38 and 39 were rejected because the Applicant failed to recite that it was the "graphs of the curves/lines" which were pertinent. The Examiner also felt that the presentation of the description of the curves/lines was not specific enough. Further, it was suggested by the Examiner that the weight of the person be claimed as a characteristic of the energy dissipating mechanism. By the foregoing amendment, Claims 1, 37, 38 and 39 have been amended to specifically refer to "the graphs" of the curves/lines. In addition, the language of the claims have been amended to make it clear that it is the intersection of the graph of the curve that describes the rate of energy dissipated as a function of the descent speed and the graph of the line that describes the rate of potential energy released by the total descending weight as a function of the descent speed where the slope of the graph of the rate of energy dissipated curve exceeds the slope of the graph of the rate of potentially energy released line. By making these changes to

Claims 1, 37, 38 and 39 the Applicant has more clearly and distinctly described the relationship between the graphs of the curve and the line as clearly shown in fig. 5. In addition, these claims have been amended to demonstrate that the "total descending weight" (meaning the weight of the person and the weight of the apparatus) is taken into account in determining the descent speed attained by the person as demonstrated by the graphs shown in fig. 5. Moreover, in order to make Claims 1, 37, 38 and 39 more definite, the preambles now requires that the person be "within a prescribed weight range". Finally, the Applicant has amended Claims 1, 37, 38 and 39 by incorporating the subject matter of Claim 2 therein to thereby make more definite the attained descent speed. It is respectfully submitted that the foregoing amendments to Claims 1, 37, 38 and 39 overcome this portion of the rejection.

3. With respect to Claim 25, the Examiner objected to the use of the term "velcro". Claim 25 has been amended to remove the objected-to term and to substitute the term "hook and loop fastener" as suggested by the Examiner. In addition, the specification has been amended so that all references to the term "velcro" and the term "ResQline" are appropriately represented with a trademark symbol. Accordingly, it is respectfully submitted that the rejection of claim 25 has been overcome.
4. In accordance with the Examiner's suggestion, Claims 32 and 33 have been amended to incorporate the phrase "adapted to" when referring to the unclaimed building. Accordingly, it is respectfully submitted that this portion of the rejection with respect to claims 32 and 33 has been overcome.
5. Claims 35 and 36 were rejected for failing to properly recite the necessary structural relationship between the air filtration system and the apparatus. It is clear from the specification and the drawings that the air filtration system could be a stand alone system and need not be structurally related to the apparatus. Claim 35 has been amended to make it clear that the air filtration system "may or may not be within or attached to the housing". Accordingly, it is respectfully submitted that this portion of the rejection has been overcome with respect to claims 35 and 36.

6. Claims 40-44 were rejected as reciting similar ambiguities with respect to the cable retraction mechanism, the mechanism to protect the cable during descent, the device to protect against heat exposure injury and the full head protection helmet. By the foregoing amendment, Claims 40-44 have each been amended to more particularly point out and distinctly claim the invention. In particular, each of these claims have been amended to incorporate into the claim that the apparatus includes a housing, a cable within the housing having a free end for attachment to a fixed anchor proximate the origin, a descent-slowng energy dissipating mechanism within the housing driven by the play out of the cable as the person descends, and a harness affixed to the housing and securable to the person. The relationship between the housing and the rest of the claimed features, if applicable, has also been clarified. It is respectfully submitted that Claims 40-44 are now sufficiently definite and recite the necessary structural relationship between the various features of the apparatus. It is therefore respectfully submitted that this portion of the rejection should be withdrawn with respect to claims 40-44.
7. Claim 37 was rejected because the Applicant failed to properly relate the step of descending to the energy-dissipating mechanism. The Examiner suggested that the Applicant rewrite the characteristics of the energy-dissipating mechanism as recited in Claims 1, 38 and 39. In accordance with the Examiner's suggestion, Claim 37 has been amended to recite the characteristics of the energy-dissipating mechanism as recited in Claims 1, 38 and 39. Accordingly, it is respectfully submitted that this portion of the rejection should be withdrawn with respect to claim 37.

In view of the foregoing amendment and discussion it is respectfully submitted that Claims 1 and 3-44 are now in full compliance with all of the requirements of 35 U.S.C. § 112 and the Applicant respectfully submits that the rejection of these claims should be withdrawn.

Allowable Subject Matter

Applicant acknowledges with appreciation the Examiner's statement that Claims 1 and 37-39 would be allowable if rewritten or amended to overcome the rejections under 35 U.S.C. § 112, second paragraph. In view of the foregoing amendment and discussion, it is respectfully

submitted that the Applicant has now overcome this rejection. Accordingly, it is respectfully submitted that Claims 1 and 37-39 as well as depending Claims 3-36 and new dependent claim 45 are now allowable. Moreover, it is respectfully submitted that in view of the foregoing amendment and discussion, Claims 40-44 are also allowable for the same reasons as set forth on page 5 of the Office Action.

Prior Art

The Examiner has cited certain prior art references as being pertinent to the disclosure but has not applied any of the prior art references as a basis for rejecting any of Applicant's claims. Applicant has carefully reviewed each of the cited references and submits that the claims, as amended, all distinguish patentably over each of the cited references whether taken alone or in proper combination.

Conclusion

In view of the foregoing amendment and discussion, it is respectfully submitted that the present application, including Claims 1 and 2-45, as amended, is in condition for allowance and such action is respectfully solicited.

In the event that the Examiner is not prepared to issue a notice of allowance with respect to Claims 1 and 2-45, the Examiner is respectfully requested to telephone the undersigned attorney to discuss any remaining issues prior to the issuance of any further Office Action.

Respectfully submitted,

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(Date)

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